



#3
38A7
Docket No.: 02560036AA

DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

SYSTEM AND METHOD FOR DESIGN, TRACKING, MEASUREMENT, PREDICTION AND
OPTIMIZATION OF DATA COMMUNICATION NETWORKS

the specification of which:

(check one) ☐ is attached hereto
☒ was filed on September 25, 2000
as Application Serial No. 09/668,145
and was amended on _____
(if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56*

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)			priority claimed	
(Number)	(Country)	(Day/Month/Year Filed)	yes	no
_____	_____	_____	_____	_____
(Number)	(Country)	(Day/Month/Year Filed)	yes	no

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

(Application Serial No.)	(Filing Date)	(Status: patented, pending, abandoned)
_____	_____	_____

and any continuation applications thereof currently pending.

Power of Attorney: As a named inventor, I hereby appoint C. Lamont Whitham, Reg. No. 22,424, Marshall M. Curtis, Reg. No. 33,138, and Michael E. Whitham, Reg. No. 32,635, as attorneys and/or agents to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. All correspondence should be directed to McGuireWoods, 1750 Tysons Boulevard, Suite 1800, McLean, Virginia 22101. Telephone calls should be directed to McGuireWoods at (703) 712-5067.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

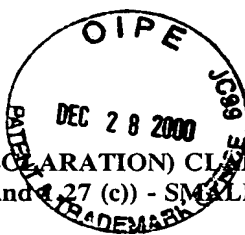
Full Name of Sole
or First Inventor Theodore Rappaport
Inventor's Signature *Theodore Rappaport* Date 12/14/00
Residence 816 Pendleton Drive, Salem, VA 24153
Citizenship United States
Post Office Address Same as above

Full Name of Joint
or Second Inventor Roger Skidmore
Inventor's Signature *Roger Skidmore* Date 12/14/00
Residence 510 HUNT CLUB DR APT. 502, BLACKSBURG, VA 24060
Citizenship United States
Post Office Address Same as above

Full Name of Joint
or Third Inventor Benjamin Henty
Inventor's Signature *Benjamin Henty* Date 12/14/00
Residence 313 Hunt Club Rd Apt 6200C, Blacksburg VA 24060
Citizenship United States
Post Office Address Same as above

Title 37, Code of Federal Regulations, § 1.56:

- (a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith toward the Patent and Trademark Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned.
- (b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and (1) it establishes, by itself or in combination with other information, a prima facie case of unpatentability; or (2) it refutes, or is inconsistent with, a position the applicant takes in: (i) opposing an argument of unpatentability relied on by the Office, or (ii) asserting an argument of patentability.



#3

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS
 (37 C.F.R. §§1.9(f) and 1.27 (c)) - SMALL BUSINESS CONCERN

I hereby declare that I am

- (check one) ☒ the owner of the small business concern identified below:
- ☐ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN Wireless Valley Communications, Inc.
 ADDRESS OF CONCERN 104 Hubbard Street, Blacksburg, Virginia 24062-0727

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 C.F.R. §121.3-18, and reproduced in 37 C.F.R. §1.9(d), for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third part or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled **SYSTEM AND METHOD FOR DESIGN, TRACKING, MEASUREMENT, PREDICTION AND OPTIMIZATION OF DATA COMMUNICATION NETWORKS** by inventor Theodore Rappaport described in:

- (check one) ☐ the specification filed herewith.
- ☒ application Serial No. 09/668,145, filed September 25, 2000
- ☐ Patent No. < > issued < >

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who could not qualify as a small business concern under 37 C.F.R. §1.9(d) or by any concern which would not qualify as a small business concern under 37 C.F.R. §1.9(d) or a nonprofit organization under 37 C.F.R. §1.9(e). *NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 C.F.R. §1.27)

NAME _____
 ADDRESS _____

☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 C.F.R. §1.28(b)) I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING Ted Rappaport
 TITLE OF PERSON SIGNING President
 ADDRESS OF PERSON SIGNING Wireless Valley Communications, Inc.
104 Hubbard Street, Blacksburg, Virginia 24060

SIGNATURE  DATE 12/14/00